IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

RP.No. 1169 of 2006

AGAINST THE JUDGEMENT IN WA.1503/2006
.....

REVIEW PETITIONER/1ST RESPONDENT:

SMT.SANTHAMMA, W/O.LATE K.K.BHASKARAN,
KALLOCHIRAYIL, KALAVOOR P.O., ALAPPUZH-688 522.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS: APPELLANT & 2ND RESPONDENT:
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1. UNION OF INDIA REPRESENTED BY THE
SECRETARY, MINISTRY OF HOME AFFAIRS,
FREEDOM FILGHTERS' DIVISION, 1ST FLOOR,
LOK NAYAK BHAWAN, NEW DELHI-110 003.

2. STATE OF KERALA REPRESENTED BY THE
SECRETARY, GENERAL ADMINISTRATION (FFP.A)
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 8/1/2007,
THE COURT ON 10/01/2007, PASSED THE FOLLOWING:

V.K. Bali, C.J. & S. Siri Jagan, J.

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R.P. No. 1169 of 2006

in

W.A.No. 1503 of 2006

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Dated this, the 10th January, 2007.

O R D E R

Siri Jagan, J.

This review petition is filed challenging the judgment dated 21-11-2006 in W.A.No. 1503/2006. The writ petition was allowed relying on a judgment of a learned Single Judge of this Court in Sobha v. Union of India, 2005 (2) KLT S.N. 64, Case No. 73. Since that judgment was overruled by a Division Bench in Sainaba v. Union of India, 2006 (1) ILR 488, we allowed the writ appeal and set aside the judgment of the learned Single Judge.

2. The contention of the petitioner in this review petition is that although she may not be entitled to rely on the decision of Sobha's case (supra), she is entitled to prove entitlement for freedom fighters' pension under the Swathantratha Sainik Samman Pension Scheme with the help of the documents produced by the petitioner as Exts. P7 and P8, which, according to the petitioner, are documents sufficient to prove the case of the petitioner even under the SSS Pension Scheme. Although, simply because she is a recipient of freedom fighters' pension under the said Scheme, she would not be automatically entitled to pension under the SSS Pension Scheme, learned counsel for the petitioner submits that this fact was omitted to be brought to the notice of this Court at the time of hearing the writ appeal itself by oversight.

3. After hearing both sides, we feel that there is merit in the contention of the petitioner. Therefore we clarify our judgment in the writ appeal to the effect that notwithstanding the fact that the petitioner is not entitled to claim the benefit of the decision in Sobha's

case, the petitioner is entitled to prove her claim under the SSS Pension scheme independently with the help of Exts. P7 and P8 documents, if they are sufficient documents to prove her claim under the SSS Pension Scheme. Therefore, we direct the appellant in the writ appeal to consider the claim of the petitioner for SSS Pension based on Exts. P7 and P8 documents afresh, notwithstanding Ext. P12 order, and pass appropriate orders in accordance with law, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this order.

The review petition is disposed of accordingly.

Sd/- V.K. Bali, Chief Justice.

Sd/- S. Siri Jagan, Judge.

Tds/

[True copy]

P.S to Judge.